

1 UNITED STATES DISTRICT COURT  
2 FOR THE SOUTHERN DISTRICT OF TEXAS  
3 HOUSTON DIVISION

4 KENNETH DAVIDSON AND JANA  
5 DAVIDSON, INDIVIDUALLY AND  
6 ON BEHALF OF THEIR MINOR  
7 CHILDREN JCD AND KSD, AND  
8 THOMAS FARMER,

CIVIL ACTION NO.  
4:15-cv-00827

9 VERSUS

10 ROCKWELL INTERNATIONAL  
11 CORPORATION, ET AL.,  
12 \_\_\_\_\_/

13 Deposition of FAIRCHILD CONTROLS

14 By And Through Its Corporate Designee

15 PAUL J. DZIORNY

16 Frederick, Maryland

17 Thursday, May 5, 2016

18 1:00 p.m.

19  
20 Job No.: 64200

21 Pages: 1 - 109

22 Reported by: Toni R. Thompson, RMR

1                   Deposition of PAUL J. DZIORNY, held at:  
2                   Regus  
3                   5100 Buckeystown Pike, Suite 250  
4                   Frederick, Maryland 21704  
5                   240.215.6510

6  
7  
8                   Pursuant to agreement, before Toni R.  
9                   Thompson, RMR, Court Reporter and Notary Public in and  
10                  for the State of Maryland.

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A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFFS (VIA VTC)

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ALSO PRESENT:

Gary Francis  
Robert Jullens (via VTC)

## 1 C O N T E N T S

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19

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22

1 P R O C E E D I N G S

2 PAUL J. DZIORNY,

3 having been duly sworn, testified as follows:

4 EXAMINATION BY COUNSEL FOR PLAINTIFFS

5 BY MR. PALMINTIER:

6 Q Can you state your full name and your  
7 business address for the record, please, sir.

8 A My full name is Paul Joseph Dziorny, and  
9 my business address is the Triumph Group at 540  
10 Highland Street in Frederick, Maryland.

11 Q And, Mr. Dziorny, what I'm going to do  
12 this morning is as quickly as possible go over the  
13 deposition rules with you. We're proceeding under  
14 the federal rules, but in the state courts and in  
15 federal courts there tends to be uniformity as far as  
16 how the depositions get done.

17 First, if I ask you something that makes  
18 no sense to you, you will not offend me by saying you  
19 don't understand and asking me to rephrase. Do we  
20 understand each other there?

21 A Yes, I do.

22 Q And also, I know that you already know

1     this, we have to ask the questions in a specific way  
2     proscribed by, prescribed by the federal rules, and  
3     the answers have to be out loud and not with nods or  
4     body language, or anything like that. Okay?

5             A     Okay.

6             Q     And let's see, what else? You've had  
7     experience giving depositions, of course, many times;  
8     correct?

9             A     No, I've never given a deposition.

10            Q     Seriously? Okay. Well, then let me do a  
11     little more.

12                   One of the things that happens in  
13     depositions, because the judge isn't present, even  
14     though the Court Reporter is and it's treated as if  
15     we're in court, one of the things that happens is we  
16     get conversational, and what I mean by that is we  
17     tend to talk over each other the way we would in  
18     pleasant company. But what I'm going to ask you to  
19     do is try to remember with me not to do that, because  
20     that makes it very hard for our Court Reporter to get  
21     down what you said, and I give you a commitment, a  
22     parallel commitment to do the same. So let's agree,

1 shall we, that we won't, if you will, step on each  
2 other's words.

3 A I agree.

4 Q Okay. Let me get some quick background  
5 from you. Where were you born and raised, sir?

6 A I was born in Queens, New York, and  
7 raised in Queens as well.

8 Q And raised there? Say that again,  
9 please.

10 A And raised there as well.

11 Q Okay. And where were you educated?

12 A In New York City at the Cooper Union, as  
13 well as advanced degrees from Rensselaer in both  
14 electrical and mechanical engineering.

15 Q And what are the advanced degrees? Are  
16 they master's, Ph.D.s?

17 A Master's degrees in each.

18 Q Okay. In electrical and mechanical  
19 engineering?

20 A A master's degree in electrical and a  
21 master's degree in mechanical, yes.

22 Q Excellent, yes, sir.

1                   And when did you get the latter of those  
2   two degrees?

3           A     Now you're asking me to remember, and I  
4   don't know if I can remember that.  Approximately --

5           Q     It's okay.

6           A     Okay.

7           Q     So I didn't hear.  Approximately when?

8           A     Approximately 1984 or '85.

9           Q     And let me explain that this, especially  
10   this deposition I'm not quizzing you on those things  
11   and we're not evaluating you yet as an expert, so  
12   you're simply presented as a corporate representative  
13   and so I won't hold you to those kinds of things, a  
14   date of completion of your education.  But suffice it  
15   to say that you have for more than 30 years been in  
16   the occupation of working as an engineer, both  
17   electrical and mechanical --

18          A     More than --

19          Q     -- is that correct?

20          A     More than 40 years, yes.

21          Q     Very good.

22                   Now, this deposition also needs to



1 include questions about your experience from an  
2 employment standpoint. One of the reasons for that,  
3 this is what's called a 30(b)(6), we want to kind of  
4 get an idea about what qualifies you to be the person  
5 who's being presented as a corporate representative.

6 Did you immediately go to work for one  
7 company, or is there a broad range of experiences  
8 from an employment standpoint?

9 A Two companies full time, several before  
10 that. After graduating from --

11 Q Okay.

12 A After graduating with a bachelor's I  
13 worked for United Technologies Corporation for 20  
14 years, and then I worked for Fairchild, and now  
15 Triumph, for over 20 years, just over 20 years.

16 Q Okay. And I take it then that the reason  
17 why you -- if you know, the reason why you've been  
18 volunteered to provide this part of the 30(b)(6)  
19 answers arises out of those 20 years' experience with  
20 Fairchild?

21 A You could say it extends beyond that,  
22 because I did work on a similar, on similar machines

1 at United Technologies. But in Fairchild I was hired  
2 as the vice president of engineering, and therefore  
3 was responsible for overseeing any technical efforts  
4 on air cycle machines, or other manufactured  
5 products.

6 Q Okay. Very good.

7 We'll get -- well, you know, I'm not  
8 going to ask you these questions today. I'm sure  
9 there's going to be another deposition of you in your  
10 role as an expert, but suffice it to say then that  
11 even before you came to Fairchild you worked on ACM  
12 systems?

13 A Before I came to Fairchild I was  
14 responsible -- I was the manager for all rotating  
15 machinery at what was then called Hamilton Standard,  
16 it's now Hamilton Sundstrand, a division of United  
17 Technologies Corporation, and in that role I was  
18 responsible for all air cycle machines developed by  
19 Hamilton Sundstrand.

20 Q Okay. Understood.

21 Did you actually design -- were you the  
22 lead designer on the creation of any ACMS?

1           A     I was the lead designer on the creation  
2     of many air cycle machines.

3           Q     Okay.   Excellent.

4                     Your current employment is with whom?

5           A     It's currently with Triumph Thermal  
6     Systems Maryland, a division of the Triumph Group.

7           Q     And that is as a result of the transfer  
8     of the Fairchild assets to Triumph through  
9     acquisition?

10          A     Exactly, in October of last year.

11          Q     Okay.   Thank you, sir.

12                    Let me ask you -- this is not designed to  
13     embarrass or anything, or to upset you, but we have  
14     the right to know what you did in order to prepare  
15     for this deposition.   So my question, my question is  
16     basically what did you do to prepare for the  
17     deposition, including, for example, review of  
18     documents.   I don't want to hear what your employer's  
19     attorneys said to you, but I do want to know whether  
20     you had a meeting.

21          A     We had --

22          Q     So let us begin.

1           A     We had several --

2           Q     Did you have a meeting?

3           A     We had several telecons. We had a  
4 meeting this morning, a brief meeting this morning.  
5 I examined all available records dating back -- all  
6 available records for anything that could possibly be  
7 associated with the Fairchild air cycle machines.

8           Q     And among those were there documents that  
9 were requested that you produce in what we'll  
10 introduce, Madam Reporter, as Exhibit 1, and that is  
11 the Notice of Deposition of Fairchild Controls  
12 Corporation?

13                   MR. PALMINTIER: And I'm going to ask my  
14 staff, we don't need to go off record yet but let  
15 me -- I'm turning to my staff to ask, do we have --  
16 were we able to send to Chris the documents that I'm  
17 about to go over?

18                   Chris, do you have those documents then,  
19 sir?

20                   MR. ODELL: I don't have any documents.  
21 I have not received any documents from your office,  
22 Mike.

1 MR. PALMINTIER: Okay. Well, let's  
2 troubleshoot that. We know you received the notice,  
3 though, Chris.

4 MR. ODELL: Yeah, we got the notice on  
5 Monday, Mike, together with a subpoena duces tecum,  
6 and we served some objections last night and you may  
7 have, you may have seen that. Basically all we said  
8 was we've produced all of the responsive documents  
9 that we've got, so you should already have them, with  
10 the exception of records that were reviewed by the  
11 witnesses that are actually not responsive, and I can  
12 explain what that means. In preparing --

13 MR. PALMINTIER: Yes, sir.

14 MR. ODELL: In preparing for the  
15 deposition and in responding to Plaintiffs'  
16 interrogatories in this case, we have, or the  
17 witnesses have reviewed numerous documents to see if  
18 there were any, for example, incident reports  
19 relating to Fairchild ACMS and did not find any. We  
20 have not produced the documents that do not mention  
21 ACM incidents, that is to say ones that don't have  
22 any relevance to the case.

1 Everything that we have that would be  
2 responsive to the subpoena duces tecum that we got on  
3 Monday has been produced in connection with  
4 Plaintiffs' other discovery requests in this case.

5 MR. PALMINTIER: I'm going to ask the  
6 witness those questions, though.

7 MR. ODELL: Yeah, go ahead.

8 MR. PALMINTIER: But we need to have the  
9 witness have a copy of the notice.

10 MR. ODELL: Okay. We haven't received  
11 any exhibits from you guys, and I don't think the  
12 Court Reporter has either. And I checked my e-mail  
13 maybe 15 minutes before we started today, I didn't  
14 have anything from your office. Do you know when  
15 they were sent or to whom?

16 MR. JULLENS: Yes, I just e-mailed  
17 them --

18 MR. ODELL: To whom?

19 MR. JULLENS -- before noon.

20 MR. ODELL: To whom?

21 MR. JULLENS: Just before noon.

22 MR. ODELL: Who did -- I can't see who's

1 speaking. Who did you send the exhibits to?

2 MR. JULLENS: Hannah and you.

3 MR. ODELL: To Hannah? I don't have any  
4 way to print out exhibits here. We are at -- just so  
5 the record is clear, we are appearing at a court  
6 reporter's office in Frederick, Maryland, not at my  
7 office, and so I don't have any ability to print out  
8 exhibits, and I wasn't told in advance that I would  
9 need to be able to print out some exhibits at the  
10 facility today, or I might have been able to arrange  
11 something.

12 MR. PALMINTIER: This is all hurried and  
13 is happening in the middle of trial preparation in  
14 another case, so I apologize.

15 MR. ODELL: Understood, and I'm not  
16 casting blame, Mike. I'm just explaining that I  
17 haven't seen the e-mail and I don't have any  
18 exhibits.

19 MR. PALMINTIER: Also we will -- the same  
20 courtesies that are extended to you will be extended  
21 to you.

22 MR. ODELL: I appreciate it.

1 MR. PALMINTIER: We appreciate you doing  
2 this.

3 What we may need to do is take a recess  
4 and get the Court Reporter to print out the exhibits.

5 MR. ODELL: How many -- Mike, do you --  
6 how many exhibits have you got? How voluminous are  
7 they?

8 MR. PALMINTIER: It's a relatively small  
9 number.

10 MR. ODELL: Like I have a copy of the  
11 30(b)(6) notice.

12 MR. PALMINTIER: Five or six. Beg your  
13 pardon?

14 MR. ODELL: I have a copy of the 30(b)(6)  
15 notice and I could hand my copy to the --

16 MR. PALMINTIER: Let me say -- I hate to  
17 interrupt. I can't understand anything that's being  
18 said and it's a complete failure, this deposition is.  
19 I can't hear, things are delayed. I mean are you  
20 guys having the same problem? I'm going to have to  
21 ask every question two or three times to be able to  
22 get a clear answer and I'm at a disadvantage as a



1 result of that, so --

2 MR. ODELL: I can hear everything fine.

3 I don't know about the witness.

4 THE WITNESS: I can hear everything fine.

5 MR. ODELL: It may be just a technical  
6 issue on your end, Mike.

7 MR. PALMINTIER: I haven't participated  
8 in setting up the technical. Does anyone know who we  
9 can call to get this straightened out?

10 (Recess 1:16-1:17 p.m.)

11 MR. PALMINTIER: Madam Reporter, back on  
12 the record. I'll go through as much as I can and  
13 struggle with the poor reception while I can.

14 (Discussion off the record.)

15 MR. PALMINTIER: Note, Madam Reporter,  
16 for the record, please, that we are having technical  
17 difficulties and having difficulties understanding  
18 the witness. We offer the following options: First,  
19 to reschedule this sometime when I can show up in  
20 person, or when we can get our technical difficulties  
21 ironed out; secondly, we'll proceed with the  
22 understanding that we're having difficulty, and that

1 will be subject to, I suppose, whatever the court  
2 might allow us to do. Bear with me.

3 We also have an ongoing matter in the  
4 State District Court of Louisiana in which I'm  
5 getting constant input from the court while we speak,  
6 and that's not your fault, but neither is any of  
7 this, but I wanted that on the record.

8 So let's go back to trying to muddle  
9 through this examination. We'll try -- I appreciate  
10 Chris's suggestion. You know, Bob's working on  
11 trying to get the exhibits transferred to the actual  
12 place where this is taking place. Meanwhile, I'll  
13 just go through other questions.

14 MR. ODELL: And, Mike?

15 MR. PALMINTIER: Yes.

16 MR. ODELL: If it's -- again, if it's  
17 helpful, I have a copy of you all's 30(b)(6) notice  
18 and I'm happy to hand it to the witness if you want  
19 to ask him questions about that. I think that's  
20 where you were starting.

21 MR. PALMINTIER: That would be very  
22 helpful.

1 MR. ODELL: I just want to help.

2 MR. PALMINTIER: I have to mute you guys  
3 because we just got a note from the court in my  
4 trial. Hold one second.

5 (Recess 1:20-1:21 p.m.)

6 MR. PALMINTIER: Back on the record. And  
7 I agree with what Chris said, this is not typical.  
8 It's my fault, not yours, and all I can say is we can  
9 muddle through and do the best we can, and  
10 hopefully -- just now the distraction of the other  
11 court, you know, just ended, so we should be free of  
12 that distraction, at least. And what's more is  
13 although we normally would have sent copies of the  
14 exhibits to the Reporter, for some reason that hasn't  
15 been done, and we appreciate your suggesting that we  
16 get them to you. We're working on that.

17 But in the meantime, let the record  
18 reflect that counsel has provided to the witness a  
19 copy of the 30(b)(6) notice which is, which gave rise  
20 to this deposition, and I'm going to ask the witness  
21 to look at it along with me, please, and in  
22 particular, Mr. Dziorny, I'm going to ask you to look

1 at the third full page.

2 THE WITNESS: Okay.

3 MR. PALMINTIER: And we're going to  
4 introduce it as an exhibit, Madam Reporter.

5 (Dziorny Deposition Exhibit 1 was marked  
6 for identification and attached to the transcript.)

7 BY MR. PALMINTIER:

8 Q Are you there, sir, where it begins in  
9 the middle, the first full paragraph actually at the  
10 top of the page, Fairchild Controls?

11 A Yes.

12 Q Do you see that paragraph?

13 A Yes, I do.

14 Q Okay. Thank you.

15 The person designated by Fairchild shall  
16 be able to testify on the following. Are you  
17 qualified, sir, from your own perspective to give  
18 testimony about the history of the design of the  
19 particular ACM at issue?

20 A I am qualified to tell you all I know  
21 about it, yes, although -- let me start again. I'm  
22 qualified to discuss all I know about the history of

1 the particular model that was designed and  
2 manufactured by Fairchild Controls. I guess you'll  
3 have to tell me what the ACM at issue is.

4 Q Okay.

5 MR. ODELL: And, Mike, I think we covered  
6 this before we were on the record at the outset of  
7 today's deposition, but Mr. Dziorny is designated as  
8 Fairchild Controls Corporation's witness for purposes  
9 of this deposition on the topics designated as A, B  
10 and F in Plaintiffs' 30(b)(6) notice.

11 MR. PALMINTIER: Which is Exhibit 1?

12 MR. ODELL: Correct, and then the other  
13 topics will be handled by Mr. Gary Francis.

14 BY MR. PALMINTIER:

15 Q Okay. Now, Mr. Dziorny, if I understand  
16 your testimony correctly, you haven't been informed  
17 as to what the ACM at issue is and you need someone  
18 to inform you of that?

19 A Well, I need --

20 MR. ODELL: Objection; form.

21 THE WITNESS: I need you to tell me what  
22 the ACM at issue is that you're referring to, yes.

1 BY MR. PALMINTIER:

2 Q I understand, but my question is a  
3 broader question than that. You haven't been told  
4 that the ACM at issue is model BUR-20-ID?

5 MR. ODELL: Object to form.

6 THE WITNESS: I can speak to model  
7 BUR-20-D, yes.

8 BY MR. PALMINTIER:

9 Q Okay. But this is the first you heard  
10 that that's what we were -- based on your answer, I  
11 submit that you're saying this is the first you've  
12 heard that this is the model that you're going to be  
13 asked questions about; is that true, sir?

14 MR. ODELL: Let me interpose an objection  
15 here. Mike, we've objected consistently to  
16 Plaintiffs' requests, including the interrogatories  
17 in today's Notice of Deposition, with respect to the  
18 phraseology the ACM at issue, or the product at  
19 issue, because Fairchild has no information as to  
20 whether the BUR-20 ACM was actually on the aircraft  
21 on the day in question, May 31st, 2011.

22 So that's our objection, but as I think

1 the witness just said --

2 MR. PALMINTIER: You didn't inform him --

3 MR. ODELL: Well, I think that's for you  
4 to inform him.

5 MR. PALMINTIER: You didn't inform the  
6 witness of -- well, I understand, and, you know, we  
7 have a magistrate now who will be able to attend to  
8 this, but I want an answer to the question from the  
9 witness.

10 BY MR. PALMINTIER:

11 Q Isn't it true, sir, that you have not  
12 been told that the model in question or at issue is  
13 model BUR-20-1D, or ID? Isn't that true, sir?

14 MR. ODELL: And I would object to the  
15 extent that it calls for privileged communications  
16 between counsel and the client.

17 MR. PALMINTIER: So you're going to tell  
18 the witness not to answer?

19 MR. ODELL: I'm going to object to the  
20 extent that you're asking the content of  
21 attorney/client communications. If the witness can  
22 answer otherwise, he's free to do so.

1 BY MR. PALMINTIER:

2 Q This is the first you heard that the  
3 model at issue is model BUR-20-ID, isn't it, sir?

4 A I can talk -- I can speak to the model  
5 BUR-20-D.

6 Q That's not my question, and you --

7 MR. PALMINTIER: Please inform him that  
8 he has to answer the question and then he can  
9 explain.

10 THE WITNESS: Could you repeat the  
11 question, please?

12 MR. PALMINTIER: I gave you the  
13 opportunity to explain that to him, Chris. You  
14 didn't do it, that's fine. Let's proceed.

15 MR. ODELL: Excuse me, the witness  
16 asked --

17 MR. PALMINTIER: Are you --

18 MR. ODELL: Excuse me, Mike. The witness  
19 asked you to clarify your question and you ignored  
20 him.

21 MR. PALMINTIER: Again, I can't hear half  
22 of what you guys are saying, so.



1 MR. ODELL: Okay.

2 MR. PALMINTIER: The witness --

3 MR. ODELL: Well, let me help you. The  
4 witness asked you to clarify your question. Did you  
5 hear me?

6 MR. PALMINTIER: Did you just offer to  
7 help me, which would be a first?

8 MR. ODELL: Okay.

9 MR. PALMINTIER: The witness just did  
10 what?

11 MR. ODELL: Look, Mike, if you're going  
12 to take this opportunity to make little snarky  
13 comments, we're not going to get anywhere today. The  
14 witness asked you on the record to clarify your  
15 question and you ignored him and started shouting.  
16 Why don't you go ahead --

17 MR. PALMINTIER: Counsel, I  
18 haven't shouted, number one --

19 MR. ODELL: -- and ask the question  
20 again.

21 MR. PALMINTIER: -- and, number two, the  
22 question was not answered. Number three, you're

1 going to have to stop giving colloquies on the record  
2 to help your witness. He's on his own. You don't  
3 get to testify for him. So -- and then it's  
4 compounded -- the problem I have is it's compounded  
5 by I can't hear what he's saying, largely because you  
6 keep talking.

7 So what I suggest is let's move back to  
8 the deposition, give the witness an opportunity to  
9 answer the question, but you do have to instruct him  
10 that he has to answer the question.

11 MR. ODELL: Why don't you ask --

12 MR. PALMINTIER: I'll do it again --

13 MR. ODELL: -- your question.

14 BY MR. PALMINTIER:

15 Q Here it is, I'll give it again,  
16 Mr. Dziorny: Today is the first time that you heard  
17 that the model BUR-20-ID is the, quote, design of the  
18 ACM at issue listed in Exhibit 1A that you've now got  
19 in front of you; isn't that true?

20 MR. ODELL: Well, hold on one second.  
21 I'm looking at Exhibit 1 and it does not define the  
22 product at issue anywhere as being the BUR-20 ACM.

1 MR. PALMINTIER: Chris, you can keep  
2 trying to prevent me from taking this deposition  
3 properly, but we've already identified the exhibit.  
4 The witness has already said that Fairchild Controls  
5 Corporation paragraph, that he sees it. He's also  
6 been asked a question from A. Now you're saying that  
7 you don't have that in front of him?

8 MR. ODELL: Let me be clear for the  
9 record. I am holding Plaintiffs' 30(b)(6) Notice of  
10 Deposition of Fairchild Controls Corporation. It is  
11 dated May 2nd, 2016. The first subject designated is  
12 A, The history of the design of the ACM at issue.  
13 Nowhere in this notice is the ACM at issue defined at  
14 all. It does not define the ACM as a BUR-20, or by  
15 any other type.

16 MR. PALMINTIER: Are we --

17 MR. ODELL: Hold on, I'm talking. Excuse  
18 me, I am talking on the record.

19 MR. PALMINTIER: You have to stop  
20 testifying, Counsel. No, you don't have the right to  
21 do that. This is my deposition. What we're going to  
22 do is we're going to stop. Do you have a phone?

1 We're going to ask the magistrate whether you're  
2 going to be able to destroy this deposition this way.

3 MR. ODELL: Excuse me --

4 MR. PALMINTIER: Let's get the magistrate  
5 on the line.

6 MR. ODELL: Wait, we are not off the  
7 record. I am going to complete my objection before  
8 you call, and then you --

9 MR. PALMINTIER: I want this to be on the  
10 record.

11 MR. ODELL: -- and then we can call  
12 Magistrate Johnson. My objection --

13 MR. PALMINTIER: We're calling the  
14 magistrate now.

15 MR. ODELL: Excuse me, Mr. Palmintier,  
16 can you please calm yourself. My objection --

17 MR. PALMINTIER: I'm not -- I'm upset  
18 that the witness --

19 MR. ODELL: My objection on the record --

20 MR. PALMINTIER: -- isn't answering  
21 questions and you keep talking.

22 MR. ODELL: -- is that Plaintiffs'

1 counsel --

2 MR. PALMINTIER: The record will reveal  
3 that.

4 MR. ODELL: Plaintiffs' counsel has  
5 designated the witness to testify about the design of  
6 the ACM at issue, but has not defined what that is.  
7 The witness has already said he is perfectly  
8 competent to testify about the BUR-20-D ACM. But  
9 that is not, that is not --

10 MR. PALMINTIER: Wait a minute, stop.  
11 Now you're testifying --

12 MR. ODELL: -- how the Plaintiff has  
13 designated this --

14 MR. PALMINTIER: -- as a corporate  
15 witness and giving him answers. You don't get to do  
16 that. Madam Reporter, off the record. It's my  
17 deposition, we're off the record.

18 (Recess 1:31-1:39 p.m.)

19 BY MR. PALMINTIER:

20 Q Mr. Dziorny, you know you're still under  
21 oath.

22 Do you have in front of you what we have

1 now called Exhibit 1, which is the Notice of  
2 Deposition which counsel was kind enough to provide?

3 A Yes.

4 Q Do you?

5 A Yes, I do.

6 Q Thank you.

7 And I also notice that the pages are not  
8 numbered, but physically if we count them there are  
9 one, two, and then the third page that I was asking  
10 you to look at, do you see that third page?

11 A Yes, I do.

12 Q And you see the Fairchild Controls  
13 Corporation bold and underlined in the beginning of  
14 the sentence in the first paragraph?

15 A Yes.

16 MR. ODELL: Hey, Mike?

17 MR. PALMINTIER: Yes.

18 MR. ODELL: I've just been handed some,  
19 what like look exhibits.

20 MR. PALMINTIER: Good, good.

21 MR. ODELL: So I'm going to -- with your  
22 permission I'm going to swap out the copy of the

1 30(b)(6) notice that I was just handed by someone  
2 here at the facility and give that to the witness as  
3 Exhibit 1.

4 MR. PALMINTIER: Yes.

5 MR. ODELL: And then I'll give the rest  
6 of the exhibits to the Court Reporter. Okay?

7 MR. PALMINTIER: That sounds good. I'm  
8 going to have to mute you guys. Give me one minute.

9 (Recess 1:41-1:42 p.m.)

10 MR. PALMINTIER: Counsel, the actual  
11 exhibit, or that which is in front of you, but they  
12 are the same, are they not, the third page has  
13 Fairchild Controls, those words, beginning the first  
14 paragraph, full paragraph; correct?

15 MR. ODELL: Correct.

16 BY MR. PALMINTIER:

17 Q And could you read that letter A under  
18 that paragraph?

19 A Yes, it says: The history of the design  
20 of the ACM at issue.

21 Q And my question for you before was isn't  
22 it true, sir, that this is the first time when I

1 mentioned a number, model number, BUR-20-1D, the  
2 first time you heard that that was the number you  
3 were to testify to?

4 A I understand what you say is the ACM at  
5 issue, but I do not know what ACM was on that  
6 airplane.

7 Q That's not my question, and I know you're  
8 an intelligent man. I'm going to ask you to  
9 distinguish between your answer and the actual  
10 question, which is isn't the first time that you  
11 heard BUR-20-1D today when I mentioned it to you.

12 MR. ODELL: Objection to form.

13 BY MR. PALMINTIER:

14 Q That's all I'm asking, yes or no.

15 A Could you repeat the question again? I'm  
16 sorry.

17 Q Today was the first time that you had  
18 heard model BUR-20-1D was the model at issue; isn't  
19 that true?

20 MR. ODELL: Objection; form, and it could  
21 be a transmission thing. Mike, are you saying BUR-21  
22 or 20?



1 MR. PALMINTIER: 20-1D.

2 MR. ODELL: Oh, okay. I'm sorry, it was  
3 a transmission issue, sorry.

4 THE WITNESS: I've heard that you have  
5 stated the ACM at issue is the BUR-20-1D. I am  
6 unaware of what -- I have no, I have no knowledge of  
7 what air cycle machine was on the aircraft, so I  
8 simply ask you what is the ACM at issue.

9 BY MR. PALMINTIER:

10 Q See that's not the way it works. You  
11 don't ask me questions, I ask you questions, and with  
12 all due respect I've asked a simple question. Isn't  
13 it true that today was the first time that you heard  
14 that the ACM model BUR-20-1D was the model at issue?

15 MR. ODELL: Objection.

16 Q Isn't that true, sir?

17 MR. ODELL: Objection; asked and answered  
18 twice. You can answer it again if you want to, sir.  
19 You don't have to at this point.

20 THE WITNESS: I understand that you have  
21 said the BUR-20-1D is the ACM at issue, but I have no  
22 knowledge of what ACM was on the aircraft.

1 BY MR. PALMINTIER:

2 Q But, sir, I didn't ask you that. I asked  
3 you whether you had ever before today heard that this  
4 is the model at issue --

5 A I've heard --

6 Q -- and your answer is no, isn't it?

7 MR. ODELL: Objection; asked and answered  
8 and misstates the record.

9 BY MR. PALMINTIER:

10 Q You hadn't heard it, have you?

11 MR. ODELL: The witness has already  
12 testified that he had heard it, and he's answered the  
13 question three times, Mike. Do you want to ask him a  
14 fourth?

15 MR. PALMINTIER: We have a hearing at  
16 2:30, we'll recess until then.

17 MR. ODELL: No, no, no, no, absolutely  
18 not. No, no, we are not going off the record for an  
19 hour and a half. Are you kidding? If you want to  
20 ask questions of the witness he's here, but this is  
21 counting against your time if you recess the  
22 deposition at this point.

1 MR. PALMINTIER: We have a magistrate  
2 hearing at --

3 MR. ODELL: We have incurred costs  
4 putting this together. I have flown out here, my  
5 client has incurred legal fees and other costs  
6 associated with this deposition, and you are making a  
7 mockery of it. This is ridiculous. Ask your  
8 questions.

9 MR. PALMINTIER: So do you suggest that a  
10 magistrate hearing that has been scheduled is a  
11 mockery, sir?

12 MR. ODELL: No, I'm suggesting --

13 MR. PALMINTIER: Would you like to state  
14 that for the record?

15 MR. ODELL: I'm happy to have this on the  
16 record. I suggest that the fact that you have asked  
17 for a video conference deposition that you are  
18 technologically not able to handle, that you have  
19 exhibits that you failed to send to anyone in advance  
20 of the deposition, and that you are not accepting the  
21 witness's testimony because you don't like the  
22 substance of it, and that you now want to recess the

1 deposition for some period of time so that you can  
2 complain to the magistrate about the situation that  
3 you've created is making a mockery of this process.  
4 Yes, sir, I am saying that, and I'm going to say the  
5 same thing to the judge.

6 Now, if you have questions to ask the  
7 witness, I invite you to do so. He's ready and  
8 willing and prepared to answer them.

9 MR. PALMINTIER: No, he's not. He may be  
10 ready and willing, but you're not willing to allow me  
11 to do what I'm allowed to do under the rules.

12 MR. ODELL: Ask any question you want.  
13 Ask any question you want.

14 MR. PALMINTIER: No, I already asked the  
15 question I want, and I don't seem to be able to get  
16 an answer because you don't seem to be able to stop  
17 talking, and that's why we need to have the  
18 magistrate --

19 MR. ODELL: Excuse me, Mike, you asked  
20 the question three times.

21 MR. PALMINTIER: I don't even get to  
22 finish a sentence. I listened to about three

1 paragraphs on this transcript from you. Let me just  
2 say for the record we will proceed, and you've  
3 disagreed with me that we should recess and that's  
4 fine with me, you know, but if you continue to tell  
5 the witness not to answer -- you have now instructed  
6 the witness not to answer, am I correct?

7 MR. ODELL: No, the witness -- I told the  
8 witness, or I objected that the answer had been, or  
9 that the question had been asked three times. I told  
10 the witness he could answer it if he, again a fourth  
11 time if he wanted to, and he did and the record  
12 reflects it.

13 MR. PALMINTIER: See that's -- well, if  
14 the record reflects that he's given an answer, it's  
15 probably instructed by you during the break that he  
16 wasn't to say, wasn't to answer my question. Let's  
17 go back on the record.

18 MR. ODELL: We've been on the record the  
19 entire time.

20 MR. PALMINTIER: You're provoking this,  
21 Chris. You got to let me ask my questions. Madam  
22 Reporter, let's go back on the record.

1 BY MR. PALMINTIER:

2 Q Mr. Dziorny, during the break did you and  
3 counsel speak?

4 A Yes.

5 Q Yes, and he told you what to answer, did  
6 he not?

7 MR. ODELL: Objection. Do not --

8 Q He told you how to answer, didn't he,  
9 sir?

10 MR. ODELL: I am instructing the witness  
11 not to divulge --

12 MR. PALMINTIER: Chris, don't interfere.

13 MR. ODELL: -- the substance of any  
14 communication between counsel and the witness.

15 Q Didn't he?

16 MR. ODELL: You are instructed not to  
17 answer that.

18 MR. PALMINTIER: You don't have a right  
19 during the deposition to counsel a witness that's in  
20 the middle of a question.

21 MR. ODELL: There was no question  
22 pending, first of all. Second, we went off the

1 record at your request.

2 BY MR. PALMINTIER:

3 Q I appreciate, Mr. Dziorny, your having  
4 told the truth about him having told you how to  
5 answer the question.

6 My next question is did he also tell you  
7 how to answer the next question, B, Your  
8 participation with other companies in the design of  
9 the environmental control system aboard the Twin  
10 Commander 690A which incorporated the Fairchild ACM,  
11 during the break did he tell you what to say about  
12 that?

13 MR. ODELL: Objection. I instruct the  
14 witness not divulge the contents of any communication  
15 with Fairchild's attorney.

16 MR. PALMINTIER: So during breaks you're  
17 coaching your witness, Chris?

18 MR. ODELL: Mike, you are asking some of  
19 the most patently objectionable questions I've ever  
20 heard in my career. You're asking me and the witness  
21 to divulge the content of communications that are  
22 privileged.

1 MR. PALMINTIER: They're not privileged,  
2 you know they're not privileged, and you're --

3 BY MR. PALMINTIER:

4 Q Anyway, did you speak with counsel  
5 about --

6 MR. ODELL: Objection.

7 Q -- B during the break that we just had?

8 A Could you ask the question one more time?  
9 I'm sorry.

10 Q See number B, letter B on the first  
11 paragraph --

12 A Yes, I do.

13 Q -- that begins, Your participation, do  
14 you see that?

15 MR. ODELL: Do you see that?

16 THE WITNESS: I do see that, yes.

17 BY MR. PALMINTIER:

18 Q Did you speak with counsel about that  
19 during the break?

20 MR. ODELL: Objection. I'm going to  
21 instruct the witness not to divulge the contents of  
22 any communication he has had with Fairchild's



1 attorneys.

2 BY MR. PALMINTIER:

3 Q And what about F, did you speak with  
4 counsel during the break about F, Any and all patents  
5 held by you or based on a design created by you for  
6 the design of air cycle machines --

7 MR. ODELL: Same instruction.

8 Q -- during the break?

9 Okay. Let's go back to A then. Are you  
10 familiar with a model called ACM model BUR-20-1D?

11 A Yes, I am.

12 Q And could you tell us what that is?

13 A It's an air cycle machine.

14 Q Is it an air cycle machine for general  
15 purposes, or is it for use in aircrafts?

16 A All air cycle machines are for use in  
17 aircraft.

18 Q Okay. And are you familiar with a  
19 specific example of that model called serial number  
20 353?

21 A Yes, I'm aware that there is a serial 353  
22 BUR-20-1D model, yes.

1 Q Have you seen that model --

2 A I haven't seen --

3 Q -- with that serial number 353?

4 A I haven't seen serial number 353, but I  
5 have seen a number of those models of air cycle  
6 machines, yes.

7 Q Did you participate in the design of that  
8 machine?

9 A No, the machine was designed starting in  
10 the '40s, and the design was well completed before I  
11 was born.

12 Q Before you were born, I'm sorry?

13 A Yes, before I was born.

14 Q Okay.

15 MR. PALMINTIER: Hold on just a second.

16 (Recess 1:54-1:56 p.m.)

17 BY MR. PALMINTIER:

18 Q One of the reasons why you were listed is  
19 because you could give a history of the design, and I  
20 guess we're just fortunate that you indeed can talk  
21 about the model BUR-20-1D. Can you tell us who  
22 designed it in the '40s, or do you know?

1           A     It was designed by engineers at  
2     Fairchild, or actually at Stratos, the former, which  
3     became Fairchild at some point through various  
4     acquisitions.

5           Q     Okay. Again, that was probably before  
6     you were a grown man, but do you have any knowledge  
7     about the company Stratos?

8           A     Sure. Yes, I do. I have some knowledge  
9     about the company Stratos.

10          Q     Could you give us just a general overview  
11     of what it was? First, am I correct that you said it  
12     was a predecessor corporation to Fairchild?

13          A     It was at least a predecessor, yes.

14          Q     Okay. And from -- do you have any idea  
15     when Fairchild became Fairchild Corporation, or  
16     Fairchild Controls Corporation?

17          A     Well, Fairchild Controls -- before I was  
18     brought into the corporation in 1994 I believe  
19     Fairchild Controls Corporation was established as a  
20     separate entity, a division of Matra-Hachette, if I'm  
21     not mistaken.

22          Q     I couldn't understand you.

1           A     As a division of Matra-Hachette.

2           Q     Okay. Can you spell that for me?

3           A     M-a-t-r-a - H-a-c-h-e-t-t-e, I believe.

4           Q     All right, sir.

5                     I want you to understand that if I refer  
6 to the ACM I'm -- for purposes of this discussion,  
7 can we agree that I'm referring to this model, the  
8 one we are talking about, the BUR-20-1D?

9           A     I'm happy to discuss the BUR-20-1D.

10          Q     And so when I refer to the ACM, can we  
11 agree that I'm referring to that model so we don't  
12 have to say it every time?

13          A     That's fine.

14          Q     All right. Thank you.

15                    Are you familiar with the Twin Commander  
16 690A, the aircraft?

17          A     Not at all. Very little. The only  
18 familiarity I having is by looking or reviewing a  
19 manual that was presented to me which showed the  
20 various systems within the Twin Commander 690A.

21          Q     Okay. And so your familiarity with it is  
22 as a result of having read a manual, your familiarity

1 with the aircraft Twin Commander 690?

2 A That's correct. I don't design aircraft.

3 Q Okay. But you do design aircraft  
4 components; correct?

5 A That's correct.

6 Q And you design them for Fairchild;  
7 correct?

8 A Presently for Triumph, but previously for  
9 Fairchild; that's correct.

10 Q Understood.

11 Are you aware of an event that took place  
12 in May of 2011?

13 A Yes, I am.

14 Q And you were made aware of it as part of  
15 this litigation; correct?

16 A That's correct. That's the only way I  
17 was made aware of it.

18 Q Okay. And so when we talk about -- I'm  
19 going to call it the incident. When we talk about  
20 the incident, can we agree that we're talking about  
21 the May 2011 incident?

22 A That's fair, sure.

1           Q     Okay. My purpose in this 30(b)(6) is to  
2     indeed get from you ideas -- sorry, get from you your  
3     corporation's knowledge of the history of this, of  
4     the model ACM, the one we're talking about. So you  
5     mentioned that it was designed by the predecessor of  
6     Fairchild. Could you go on? Did it stay the same,  
7     or has it gone through permutations of redesign or  
8     improved design?

9           A     I have knowledge of one engineering  
10    change that was made for producibility in  
11    approximately 1970 or '73. It was a minor change  
12    that eased some assembly issues. But other than  
13    that, the machine that's overhauled today at  
14    Fairchild -- at, excuse me, at Triumph is the same as  
15    was designed initially.

16          Q     The same as was designed?

17          A     Initially, the same -- it conforms to the  
18    drawings that date back as early as 1941, I believe.

19          Q     Excellent, okay.

20                So as far as this particular model is  
21    concerned, Stratos and Fairchild, and even Triumph  
22    now, have been manufacturing them according to the

1 original early '40s design; correct?

2 MR. ODELL: Objection; form.

3 THE WITNESS: They've been -- it's out of  
4 production now. It's been out of production for over  
5 30 years now, as best as I can estimate, but the  
6 machines that we overhaul today conform to the  
7 drawings that date back to the '40s and '50s.

8 BY MR. PALMINTIER:

9 Q What is an environmental control system?

10 A An environmental control system controls  
11 the humidity, the temperature and the pressure within  
12 an aircraft cabin, a cockpit and cabin of an  
13 aircraft.

14 Q And an ACM, such as the one we're talking  
15 about today, is part of that environmental control  
16 system, which we'll call the ECS --

17 A It is one --

18 Q -- do you agree?

19 A It is one component of it, yes, I agree.

20 Q Would you also agree, though, that it is  
21 an essential component without which an environmental  
22 control system for an aircraft for which this ACM was

1 designed would not be able to function?

2 MR. ODELL: Objection; form.

3 THE WITNESS: I would say it's not -- you  
4 could have an environmental control system that  
5 controls pressure within the aircraft without an air  
6 cycle machine. So is it essential? No, not  
7 necessarily. It cools the aircraft.

8 BY MR. PALMINTIER:

9 Q So your testimony -- go ahead.

10 A It provides cooling. That is its primary  
11 function --

12 Q Okay.

13 A -- to provide cooling, as I stated in the  
14 report and the declaration previously submitted to  
15 you.

16 Q And the what previously submitted?

17 A The declaration and the report that was  
18 previously submitted.

19 Q Okay. But, and I'm sure counsel will  
20 confirm this, that's not the role you're playing  
21 today. You're the corporate representative giving me  
22 answers to questions, and I'm not relying on your



1 report or your declaration to ask you these  
2 questions, but I also don't want to dwell on things.  
3 I do have just a few more questions about the role of  
4 the ACM in the ECS. Does that question -- does that  
5 preface make sense to you, the role of the ACM in the  
6 ECS?

7 A I can tell you the role of the ACM in the  
8 ECS. Its primary function is to cool air introduced  
9 into the cabin.

10 Q Okay. And so if -- isn't it true, sir,  
11 that a well-designed ECS always has some component  
12 that cools air?

13 A It doesn't have to, but that's true, they  
14 do for passenger comfort. It's for comfort. It's  
15 not for safety or any other reason.

16 Q Understood.

17 The ACM in question, did you participate  
18 in any modifications or redesigns of that model?

19 A The model was not redesigned, other than  
20 one minor engineering change which I'd be happy to  
21 describe to you. It conforms to the original  
22 drawings made between 1941, I believe, and sometime

1 in the '50s.

2 Q Okay. Let's then go ahead and explain  
3 that design -- I think you began to explain the,  
4 explain that design change that I think you said was  
5 sometime in the early '70s?

6 A It was '71 or '73, yes. It was a minor  
7 engineering change that allowed the assemblers to  
8 polish the ID of a sleeve into which the bearing is  
9 inserted.

10 Q Okay. And what was the purpose of the  
11 bearings that you just mentioned?

12 A The bearings support the rotative  
13 assembly.

14 Q Okay. And what was the purpose of the  
15 sleeve?

16 A The air cycle machine is made as light as  
17 possible and consequently aluminum is used  
18 extensively. The bearing outer race, each of the  
19 bearing outer races is hardened steel and cannot be  
20 inserted directly into aluminum, so a sleeve is  
21 inserted in the aluminum, a steel sleeve, to protect  
22 that aluminum surface.

1           Q     Okay. And that is -- just that assembly,  
2     how is it lubricated, the assembly that was modified?

3           A     The assembly is not lubricated. The only  
4     thing that's lubricated are the ball bearings within  
5     the assembly, and they're lubricated identically to  
6     how they were designed initially. No changes have  
7     been made related to lubrication of the ball  
8     bearings. The only change that was made was this  
9     change allowing polishing of the sleeve that  
10    facilitates inserting the bearings more easily.

11                It's a producibility issue more than  
12    anything else.

13           Q     So that the overhauling of the ACM could  
14    be facilitated; correct?

15           A     Either the overhaul or the manufacture to  
16    begin with, the initial manufacture.

17           Q     Well, one of the things that you've  
18    explained to us is that 30 years ago Fairchild, I'm  
19    guessing it was Fairchild, stopped manufacturing this  
20    particular ACM; correct?

21           A     Approximately 30 years ago, yes.

22           Q     That's one of those numbers we won't hold

1     you to exactitude on. We can find that out somewhere  
2     in Fairchild's records; correct --

3                     MR. ODELL: Objection; form.

4             Q     -- the exact time in which it stopped  
5     manufacturing?

6                     MR. ODELL: Objection; form.

7                     THE WITNESS: I don't believe that we  
8     would be able --

9                     MR. PALMINTIER: I'll withdraw and  
10    rephrase.

11   BY MR. PALMINTIER:

12             Q     Somewhere in Fairchild's record we could  
13    find the date when it was, this machine was, the ACM  
14    was discontinued in terms of manufacture; correct?

15                     MR. ODELL: Objection; form.

16                     THE WITNESS: We have looked at all the  
17    records that exist, and the company does not have any  
18    precise indication of the last time that unit was  
19    manufactured.

20   BY MR. PALMINTIER:

21             Q     Okay. But you give us -- you're giving  
22    us a guesstimation of around 30 years ago --

1           A     That's correct.

2           Q     -- correct?

3           A     That's correct.

4           Q     Let's talk about the reason for the  
5     discontinuation of this model of ACM. First, did you  
6     participate in the decision to discontinue it?

7           A     Certainly not. I was not an employee of  
8     Fairchild Controls in approximately 1980.

9           Q     Have you familiarized yourself then with  
10    the reasons that your predecessors at Fairchild  
11    discontinued the use of this ACM, of the manufacture  
12    of this ACM?

13               MR. ODELL: Objection; outside the scope  
14    of the designation. You can answer.

15               THE WITNESS: I can tell you that the  
16    reason the unit, the manufacture of the unit was  
17    discontinued is simply because there were no new  
18    airplanes being manufactured at that time. That  
19    would be my, a very good guess as to why it was not  
20    manufactured after 1980, or approximately 1980.

21    BY MR. PALMINTIER:

22           Q     And to the statement that the reason why

1 Fairchild discontinued the manufacture is because  
2 they were inherently unsafe, you would say what?

3 A I would say that there's no basis for  
4 that.

5 Q But you have heard criticisms of this  
6 particular ACM in terms of its safety record, have  
7 you not?

8 A I certainly have not.

9 Q Okay. We'll talk about your job --  
10 MR. ODELL: Do you mean outside this  
11 litigation?

12 MR. PALMINTIER: I'm sorry?

13 MR. ODELL: I'm sorry, did you mean  
14 outside this litigation, or just in this case?

15 MR. PALMINTIER: I'll let the answer  
16 stand.

17 MR. ODELL: Okay.

18 MR. PALMINTIER: I'm fine with the  
19 answer.

20 MR. ODELL: Okay.

21 BY MR. PALMINTIER:

22 Q What I'm asking, though, is -- let's go

1 back to your role, your current role for Triumph, the  
2 sequelae corporation to Fairchild. What is your job  
3 now?

4 A My job now is vice president, chief  
5 engineer.

6 Q And it's your role as vice president and  
7 chief engineer to evaluate the systems that your  
8 company is manufacturing; is it not?

9 A It certainly is, yes.

10 Q And one of your responsibilities -- one  
11 of the rules you follow is you make certain that  
12 there's nothing inherently unsafe about any of the  
13 products that you manufacture; correct?

14 A I am responsible for the safety of the  
15 product -- ensuring that we manufacture or design, I  
16 should say design and develop safe products, yes.

17 Q And that was your responsibility when you  
18 were employed by Fairchild, wasn't it?

19 A Yes, it was.

20 Q How long -- were you chief engineer for  
21 Fairchild as well?

22 A I was vice president of engineering at

1 Fairchild for 17 years.

2 Q I'm sorry, the technological problem just  
3 recurred. Would you restate that answer?

4 A Sure. I was vice president of  
5 engineering for Fairchild Controls for 17 years.

6 Q Did you also have, as you just described  
7 for us, the moniker of chief engineer while you were  
8 at Fairchild?

9 A For two, two and three-quarters years,  
10 yes, I did.

11 Q And was that toward the end of your, of  
12 the existence of Fairchild as it became --

13 A It was --

14 Q -- Triumph?

15 A No, it really had nothing to do with  
16 that. It had to do with a new president coming into  
17 Fairchild.

18 Q Okay. And was that just a change in the  
19 words used to describe the job title, or did the job  
20 change when you became chief engineer two and a half  
21 years before?

22 A The job changed.



1           Q     Okay.  What additional responsibilities  
2     did you have?  What additional rules did you have to  
3     follow?

4           MR. ODELL:  Objection; form.

5           THE WITNESS:  I didn't have additional  
6     rules, I had new rules to follow.  I was responsible  
7     for development of new designs, not the day-to-day  
8     operation of the engineering group.

9     BY MR. PALMINTIER:

10          Q     Okay.  Well, wasn't there a chief  
11     engineer before you at Fairchild?

12          A     No, there wasn't.  The new president --  
13     the president, when he arrived, created that role.

14          Q     Understood.

15                 What was your role as -- I'm sorry, your  
16     job description before they added chief engineer  
17     was --

18          A     Vice president --

19          Q     -- vice president?

20          A     -- of engineering.

21          Q     What was your job for those 17 years  
22     while you were vice president of engineering for

1 Fairchild?

2 A I was responsible for all engineering  
3 operations, design and development, as well as  
4 production follow-up.

5 Q Did Fairchild design a new ACM after it  
6 discontinued the manufacture of the ACM in question?

7 A No.

8 Q Same reason, that small planes weren't  
9 being made?

10 A No, they changed -- they no longer --  
11 they decided they were no longer making air cycle  
12 machines.

13 Q Okay. And -- but they continued to  
14 maintain the air cycle machines they designed and  
15 built; correct?

16 A Yes.

17 Q And that's since before you came, at  
18 least as far as you know since before you came to  
19 Fairchild they did the same; correct?

20 A Yes.

21 Q And certainly when you got there 17 years  
22 before you went to Triumph this maintenance of the

1 existing product was done; correct?

2 A For my entire career at Fairchild  
3 Fairchild has overhauled and repaired existing, or  
4 air cycle machines that were designed by Fairchild,  
5 or Stratos at the time.

6 Q From an engineering standpoint, can you  
7 describe to the jury what the nature of the  
8 overhauling system of component parts of aircrafts is  
9 like, what it is?

10 MR. ODELL: Objection; form.

11 THE WITNESS: I'm not sure I understand  
12 your question. I'd be happy --

13 MR. PALMINTIER: I'll withdraw. Yes,  
14 I'll withdraw, and if we were physically present I  
15 would -- you know, this would go more quickly, this  
16 kind of withdrawal, but I agree that that was not a  
17 clear -- this is what we were talking about earlier,  
18 if I say something that doesn't make sense I  
19 certainly am not offended by your telling me so. Let  
20 me try to rephrase.

21 BY MR. PALMINTIER:

22 Q I'm a layperson in this regard, and

1 especially relative to the engineering, but in this  
2 case I've observed and become familiar with the idea  
3 that components of small aircraft are often cycled  
4 through the aircraft, if you will, the world of small  
5 aircrafts, so that, for example, an air cycle machine  
6 might be withdrawn from a plane but an overhauled one  
7 placed in, and the one that was withdrawn put into a  
8 cycle of overhauling, maintenance and repair.

9 Am I incorrect about that as part of the  
10 system for small craft, aircraft?

11 A If -- no, you're not incorrect in that if  
12 a part is not functioning properly it is removed from  
13 an aircraft, it is sent to a certified repair  
14 station, an FAA certified repair station, and it is  
15 properly repaired, overhauled as required --

16 Q Understood.

17 A -- and a operational unit replaces it in  
18 the system.

19 Q Okay. During the time that you were VP  
20 of engineering, did you participate in the  
21 methodology for cycling those, or circulating those  
22 overhauled parts through the industry, through small

1 aircraft?

2 MR. ODELL: Objection; form.

3 THE WITNESS: I was responsible for  
4 providing any assistance required to overhaul, to  
5 properly overhaul any of our components. But in  
6 reality, there was never a problem overhauling, or  
7 any change required in the last 20 years associated  
8 with any air cycle machine made by Fairchild or  
9 Stratos.

10 BY MR. PALMINTIER:

11 Q So if understand your answer correctly  
12 then, you would expand by saying no ACM that  
13 Fairchild manufactured and that was part of this  
14 overhaul and repair system ever was reported to have  
15 contributed to a failure, a fume event in a cabin of  
16 a plane?

17 A I did not say that at all, but --

18 Q Well, I didn't mean to put words in your  
19 mouth. I thought that's what you had said. I'm  
20 wrong about that?

21 A What I said is that --

22 Q Explain that.

1           A     What I said is that I was responsible, I  
2     am -- I was responsible for any follow-up actions  
3     required if any issue existed with the overhaul and  
4     repair of any Fairchild equipment.

5           Q     And that over 20 years there was no  
6     problem with the ACM?

7           A     There was no, there was no repair or  
8     overhaul issue associated with it. In other words,  
9     the processes used were perfectly acceptable and  
10    there were no problems associated with repair and  
11    overhaul; correct.

12          Q     I understand now.

13                Is it correct to say that a routine  
14    problem that was, that gave rise to the removal of an  
15    ACM from these aircraft for overhauling was, the  
16    allegation anyway on the part of the customer, that  
17    it was giving rise to fume events in the ECS of the  
18    various planes that it was a part of?

19               MR. ODELL: Objection; form.

20               THE WITNESS: I have no -- after  
21    reviewing all records and during my experience, I  
22    have never heard of a problem whereby one of the ACMS

1 has caused a fume event other than through this  
2 litigation.

3 BY MR. PALMINTIER:

4 Q The May 2011 event; correct?

5 A This, of this lawsuit, yes. That's the  
6 first time I was informed of any issue associated  
7 with the BUR-20 ACM.

8 Q But is it fair to say that one reason  
9 that may be is because no one told you about the fume  
10 events, or would that not have been something that  
11 you would have been concerned with?

12 MR. ODELL: Objection; form.

13 THE WITNESS: If there was a fume event  
14 I'm sure it would have been reported through our  
15 product support group and it would have been brought  
16 to my attention, as any problem, any issue with any  
17 of our equipment would be brought, would have been  
18 brought to my attention.

19 BY MR. PALMINTIER:

20 Q And so in your role as corporate  
21 representative and the provider of the history of the  
22 design of what we've now called the ACM at issue, and

1 we've defined it for you, in your role as a person  
2 giving testimony about the history your testimony is  
3 other than this May 2011 event you had not been told  
4 of, and should have been told of, any other fume  
5 events pertaining to the ACM?

6 A I have not been --

7 Q -- correct?

8 A -- told of any other events; that's  
9 correct.

10 Q Okay. In your previous employment with  
11 other engineering firms, could you tell us whether  
12 you participated in the design of any environmental  
13 control systems for small aircraft, or any kind of  
14 aircraft?

15 A In my previous employment I participated  
16 in many design and development efforts for  
17 environmental control systems of small aircraft, as  
18 well as very large aircraft.

19 Q Okay. And when you did that, among --  
20 that is when you participated in the design of an  
21 ECS, one of the things that you were responsible for  
22 was the placement of devices such as ACMS which



1 contributed to the conditioning of the air in the  
2 aircraft; correct?

3 A I designed the air cycle machines, yes.

4 Q And you designed them as part of the  
5 overall environmental control system; correct?

6 A My previous employer had an entire ECS  
7 group that designed the entire system, and I was  
8 responsible for that machine, yes.

9 Q Let's talk about then that role before  
10 the Fairchild role. Had you ever heard criticism of  
11 the ACM of the kind that Stratos designed and  
12 Fairchild continued to manufacture when Stratos  
13 became Fairchild?

14 MR. ODELL: Objection; form.

15 THE WITNESS: If you could explain  
16 further. If you mean oil-lubricated air cycle  
17 machines, I can speak to that. Is that your  
18 question?

19 BY MR. PALMINTIER:

20 Q Yes. Thank you.

21 A Okay. There were many oil-lubricated air  
22 cycle machines that were manufactured by United

1 Technologies Corporation, and I was indeed  
2 responsible for mostly follow-up but even some new  
3 machines that were oil-lubricated air cycle machines.  
4 So, yes, I have experience with them.

5 Q One of the things that you were concerned  
6 with when you designed a system, an ECS that  
7 contained an ACM, was concern over potential fume  
8 events; right?

9 A Not at all, no, because every single  
10 oil-lubricated air cycle machine is vented to an  
11 internal cavity that exhausts to the ambient air, so  
12 there's no -- unless the machine actually fails,  
13 unless the bearings fail fumes cannot come, go into  
14 the air that gets into the cockpit and cabin.

15 Q But what if the bearings do fail, then it  
16 can get into the cockpit; correct?

17 A Certainly it can. It's a very quick  
18 event that occurs when the unit fails, and it happens  
19 in less than a second typically, and, yes, it does,  
20 it does -- oil does leak. Usually it happens so  
21 quick that it's not a fuming event, it's a liquid  
22 spewing event.

1           Q     Well, when I take your deposition again  
2     as an expert what we'll do is we'll get into those  
3     details. But for our purposes we're talking about  
4     the history that, the history of the ACM at issue,  
5     and my question is did you ever incorporate a  
6     Fairchild manufactured ACM into the ECS that you  
7     designed for your previous employer.

8           A     Did I -- let me make sure I understand  
9     the question. Did I ever incorporate a Fairchild ACM  
10    into a United Technologies Corporation system, is  
11    that the question?

12          Q     Yes.

13          A     Never.

14          Q     Yes.

15          A     No, never.

16          Q     And that's because you -- I'm sorry.

17                 And that's because United Technologies  
18    manufactured all of the components of its ECS?

19          A     Not all of the components, but the heart  
20    of an ECS is typically taken to be the air cycle  
21    machine, and therefore it was closely controlled by  
22    United Technologies. We manufactured --

1 Q You agree with --

2 A Sorry.

3 Q I'm sorry. Go ahead.

4 A No, we would manufacture --

5 Q I interrupted.

6 A United Technologies manufactured their  
7 own air cycle machines for their systems.

8 Q Okay. You would agree with me, would you  
9 not, though, that when they did manufacture those  
10 ACMs they did so with consideration for the entirety  
11 of the ECS?

12 MR. ODELL: Objection; form.

13 BY MR. PALMINTIER:

14 Q In other words, it was important that the  
15 design of the entire ECS be compatible with that ACM  
16 that they had manufactured?

17 A The ACM was certainly compatible with the  
18 system and met requirements that were posed by the  
19 system engineers within United Technologies  
20 Corporation; that's correct.

21 Q Okay. Then when you were at United  
22 Technologies, am I correct in saying that you

1 actually designed specific ACMS?

2 A Yes.

3 Q Did you ever design an ACM that was  
4 identical to, or nearly identical to, the ACM in  
5 question that we referred to in letter A and that  
6 we've now defined as the specific ACM in question?

7 A I don't know what you mean by identical  
8 or nearly identical.

9 Q Well, let me rephrase it then. Did you  
10 ever manufacture -- I mean did you ever design an ACM  
11 that was anywhere near the same as this subject ACM  
12 in terms of its mechanism and manner in which it  
13 operated?

14 MR. ODELL: Objection; form.

15 THE WITNESS: Yes, the configuration of  
16 all air cycle machines, especially oil lubricated, is  
17 essentially the same. Sizes are different,  
18 components are different, but the base configuration  
19 is similar.

20 BY MR. PALMINTIER:

21 Q Okay. So from a historical standpoint  
22 regarding this ACM that we're talking about, you

1     helped manufacture -- sorry, you helped design  
2     similar ACMs?

3             A     Yes, they work -- the state of the art,  
4     up until approximately the late '60s, involved  
5     oil-lubricated air cycle machines, and they are all  
6     similar in design, yes.

7             Q     Now, you've heard the criticism that this  
8     type of ACM that we're talking about today has a  
9     danger inherent in it in that it processes bleed air,  
10    it moves bleed air through its system; correct?

11            MR. ODELL:  Objection; form.

12            THE WITNESS:  You said an inherent -- I'm  
13    sorry, could you repeat that last phrase?  Inherent  
14    criticism or -- I didn't quite get that.

15            MR. PALMINTIER:  No, no, I'll rephrase.

16    BY MR. PALMINTIER:

17            Q     Your role as the historian is really what  
18    I'm trying to get at.  As the person that Fairchild  
19    has presented to us to explain the history, I'm  
20    asking you, the history of this ACM, I'm asking you  
21    whether you had no knowledge that there were inherent  
22    criticisms of this ACM among other reasons because it

1     relied on bleed air, a thing that's called bleed air,  
2     did you not know that?

3                   MR. ODELL:  Objection; form.

4                   THE WITNESS:  No, every single air cycle  
5     machine uses bleed air.  It does today, it did 30  
6     years ago.  That's how it functions.

7     BY MR. PALMINTIER:

8                   Q     And what is the risk of using bleed air?

9                   MR. ODELL:  Objection.

10                  Q     Are there no risks?

11                  MR. ODELL:  Objection; outside the scope  
12     of the deposition notice.  You can answer.

13                  THE WITNESS:  The risk of using bleed air  
14     is that the engine could introduce something in the  
15     bleed air that's not desirable, I'm sure.

16     BY MR. PALMINTIER:

17                  Q     From an historical standpoint, when you  
18     were working for Fairchild were you not concerned  
19     about the possibility of that something being  
20     processed through the air cycle machine and pushed  
21     into the cabin and cockpit?

22                  MR. ODELL:  Same objection.

1 THE WITNESS: No, I was not concerned.

2 There is no other way to pressurize an aircraft other  
3 than using bleed air or a external compressor.

4 BY MR. PALMINTIER:

5 Q Why did you all choose not to use  
6 external compressors at Fairchild when it came to air  
7 cycle machine and air used to feed the ECS?

8 MR. ODELL: Objection; form.

9 THE WITNESS: Well, you just said at  
10 Fairchild. We did not design, or while I was at  
11 Fairchild I was never involved in the design of a new  
12 air cycle machine.

13 BY MR. PALMINTIER:

14 Q If you had designed one -- and again I'm  
15 talking about the history at Fairchild now. It's  
16 fair to say that you would have considered, at least,  
17 as the vice president of engineering the use of an  
18 external source as you've described; correct?

19 MR. ODELL: Objection; outside the scope  
20 of the designation.

21 THE WITNESS: No, because the technology  
22 involved to drive a compressor at high speeds didn't



1     exist until the late '80s, and was actually never  
2     introduced until beyond the year 2000 simply because  
3     a motor cannot drive a compressor to the speeds  
4     required.

5     BY MR. PALMINTIER:

6             Q     Okay. Have you ever heard of a man named  
7     Peter Schiff?

8             A     No, I haven't.

9             Q     All right. Let's go to F on the, on  
10    Exhibit 1. Are you aware of any patents that are  
11    held by Fairchild Controls Corporation for design of  
12    an air cycle machine?

13            A     We -- the company searched for any  
14    patents associated with air cycle machines and we did  
15    not find any. So we searched all available records  
16    and found no indication of a patent of a Fairchild,  
17    for a Fairchild air cycle machine.

18            Q     So just out of curiosity, Mr. Dziorny,  
19    the machine that had been manufactured by Fairchild  
20    and then was maintained by Fairchild had no patents  
21    on it?

22            A     Not to the knowledge -- not to my

1 knowledge. Not to the knowledge of the company;  
2 correct.

3 Q Okay. Bear with me.

4 MR. PALMINTIER: I'll offer and introduce  
5 Exhibit 2, a photograph of the aircraft that was  
6 involved in the fume incident in May of 2011. Madam  
7 Reporter, it's the only picture of an airplane. Do  
8 you see it?

9 THE COURT REPORTER: Yes. Do you want me  
10 to mark it?

11 MR. PALMINTIER: As Exhibit 2, yes,  
12 ma'am.

13 (Dziorny Deposition Exhibit 2 was marked  
14 for identification and attached to the transcript.)

15 BY MR. PALMINTIER:

16 Q Okay. I know you've already mentioned  
17 that you had little or no experience with the Twin  
18 Commander 690A, but let me just ask you for  
19 completeness sake, have you ever seen this particular  
20 aircraft?

21 A Not to my memory. Have I actually seen  
22 one of these? No.

1           Q     Okay. So from the standpoint of the  
2 history of the ACM in question, I take it that your  
3 answer would be that you're unfamiliar as to whether  
4 or not an ACM, the subject ACM, the model BUR-20-1D  
5 or 20-ID, you have no idea whether such an ACM was  
6 aboard this aircraft?

7           MR. ODELL: At what time?

8           MR. PALMINTIER: At any time.

9           THE WITNESS: Have I -- I've never seen  
10 one on this aircraft. I do know that they were, that  
11 they're made for -- at least they're one of the air  
12 cycle machines that's made for this aircraft.

13 BY MR. PALMINTIER:

14          Q     Okay. And which one is that?

15          A     Well, the BUR-20-1D is known to fit into  
16 that system. I've reviewed -- as I stated earlier,  
17 I've reviewed the, oh, the aircraft or system manual  
18 and it calls out a Stratos BUR-20-1D as part of the  
19 system. It shows pictures of what looks to be a  
20 BUR-20-1D.

21          Q     Okay. But again, you've never seen one  
22 of these aircraft and you certainly didn't inspect

1 the one in Exhibit No. 2; correct?

2 A That is correct.

3 Q Bear with me just a moment.

4 MR. PALMINTIER: Madam Reporter, we sent  
5 you -- and again my apologies in the delay in getting  
6 these to you -- a document that says Change Notice at  
7 the top. Do you see that?

8 MR. ODELL: Do you mind if I look for it,  
9 Mike, while the Court Reporter types?

10 MR. PALMINTIER: Not at all.

11 MR. ODELL: I got it. Fairchild 72, is  
12 that it?

13 MR. PALMINTIER: That is correct. Let's  
14 call this Exhibit 3.

15 MR. ODELL: I'll be your legal assistant.  
16 I won't even charge you for it, Mike.

17 MR. PALMINTIER: Let's call it Exhibit 3.  
18 I expect a bill in the mail, Chris.

19 (Dziorny Deposition Exhibit 3 was marked  
20 for identification and attached to the transcript.)

21 BY MR. PALMINTIER:

22 Q Exhibit 3, and have you ever seen this

1 document before, sir?

2 A Yes, sir, I have. This is the  
3 document --

4 Q Did you review it in preparation --

5 A Not --

6 Q Did you review it in preparation of the  
7 deposition?

8 A I reviewed it in preparation, in putting  
9 together all of the documents associated with the  
10 BUR-20-1D; correct.

11 Q I'm sorry, that was literally -- that  
12 last thing, associated with?

13 A With the BUR-20-1D.

14 Q Okay. So you actually found this  
15 document in a search, or someone found it for you?

16 A One of the -- one of my associates put  
17 together all of the drawings, and this is one of  
18 those drawings.

19 Q What is Exhibit 3?

20 A It is a Change Notice.

21 Q What is a Change Notice?

22 A A Change Notice is a supplement to a

1 drawing that's carefully controlled and becomes part  
2 of the build definition or repair definition of any  
3 component.

4 Q Okay. Now, this particular one in  
5 Exhibit 3, can you tell us laypeople what this means,  
6 what it means?

7 A Yes, it's if -- it means that the  
8 mechanic is permitted to polish the ID of the sleeve  
9 that holds the bearing if required to allow the  
10 bearing to slide freely.

11 Q This is that change that you told us  
12 about earlier --

13 A That's exactly right.

14 Q -- in your deposition?

15 A Yes, it is.

16 Q And this enabled -- the polishing enabled  
17 the easier return of overhauled bearings, or fresh  
18 bearings into the sleeve; correct?

19 A It facilitates installation of the  
20 bearing into the sleeve, if required.

21 Q The reason why -- I'm sorry. The reason  
22 why bearings have to be replaced is because they wear

1 out; correct?

2 A Yes, they're wear-out items.

3 Q Okay. Let me ask you again from a  
4 historical standpoint, and as the chief engineer and  
5 vice president of engineering for Fairchild for 20  
6 years, are you aware of other designs of air cycle  
7 machines?

8 MR. ODELL: Objection; form.

9 THE WITNESS: Okay. Fairchild is not  
10 involved in the design of air cycle machines anymore.  
11 If you're asking --

12 BY MR. PALMINTIER:

13 Q Yes.

14 A If you're asking if I am aware of  
15 alternate designs compared to oil-lubricated designs,  
16 I certainly am. I designed numerous machines that  
17 weren't oil lubricated.

18 Q Okay. What is the alternative design to  
19 that --

20 A Well, there are actually --

21 Q -- the ones that --

22 A There are actually two, air bearings and

1 magnetic bearings.

2 Q Okay. Let's talk about air bearings.  
3 How does that differ from the subject ACM that we've  
4 been talking about?

5 A It's a far different configuration with  
6 new technology developed probably in the late '70s  
7 for increased reliability and reduced maintenance.

8 Q Okay. And you actually incorporated this  
9 new technology into some of your own designs that you  
10 did at United Technologies?

11 A We developed new designs using air  
12 bearings in my previous life at United Technologies;  
13 correct.

14 Q Okay. But I -- and if I asked you this  
15 already, I apologize, this is a different angle. But  
16 by the time you got to Fairchild they weren't  
17 manufacturing new ACMs anyway; correct?

18 A They were not designing or manufacturing  
19 new air cycle machines; correct.

20 Q Okay. So you were never called upon to  
21 evaluate the design that had been done 30 years  
22 before by Fairchild's predecessor corporation?



1           A     Because we never had any problems with  
2     them.

3           Q     But the answer is no --

4           A     I was never --

5           Q     -- you were never called upon?

6           A     What was the question, was I called upon  
7     to -- could you please repeat?

8                     MR. PALMINTIER:  Yeah, read it back,  
9     please, ma'am.

10                    (Record read.)

11                    THE WITNESS:  Not until this litigation.

12     BY MR. PALMINTIER:

13           Q     Okay.  But see one of the things I try to  
14     do is get an answer and then have an explanation.  So  
15     the answer is no, not until this litigation; correct?

16           A     That's correct.

17           Q     Okay.

18                    MR. PALMINTIER:  The next document, Madam  
19     Reporter, has the word Fairchild Controls at the top  
20     and it's called a Shop Visit Report.

21                    MR. ODELL:  Is this Exhibit 4, Mike?

22                    MR. PALMINTIER:  I beg your pardon?

1                   MR. ODELL: Exhibit 4, you want this as  
2 the next exhibit?

3                   MR. PALMINTIER: Yes, please, Exhibit 4.

4                   (Dziorny Deposition Exhibit 4 was marked  
5 for identification and attached to the transcript.)

6 BY MR. PALMINTIER:

7               Q     Okay. Have you ever seen this document  
8 before, Exhibit 4?

9               A     Let's see, this was on 353. Yes, I have  
10 seen this, yes.

11              Q     Okay. How did you see this?

12              A     It was brought to my attention at the  
13 time that I started becoming involved in this  
14 litigation.

15              Q     Okay. Who brought it to your attention?

16              A     I believe Gary Francis, the director of  
17 product support, shared it with me.

18              Q     And Mr. Francis is the other corporate  
19 designee that was there earlier; correct?

20              A     That's correct.

21                   MR. ODELL: And, Mike?

22                   MR. PALMINTIER: Yes.

1                   MR. ODELL: If I could, you can ask the  
2     witness whatever you want. I wanted to make sure you  
3     heard me before when I said that Mr. Francis would be  
4     our designee on topic C. I don't know if you're  
5     getting into that now and you're free to ask the  
6     witness whatever you want about this document. I  
7     just wanted to make sure that you recognize that he  
8     was not our designee on topic C, which has to do with  
9     overhauls.

10                  MR. PALMINTIER: Okay. Thanks, Chris, I  
11     won't get into it, other than as it relates to A.

12                  MR. ODELL: That's fine.

13                  MR. PALMINTIER: But we can save some  
14     time, I'm sure.

15                  I also sent the pictures that Chris was  
16     kind enough to send us earlier in the week. It's  
17     Fairchild 1343, 44, 45 and 46. Do you see those,  
18     Madam Reporter, and, Chris, do you see those?

19                  MR. ODELL: Yeah, do you want me to mark  
20     them separately, or together? How do you want to do  
21     it?

22                  MR. PALMINTIER: I would like to offer

1     them as in globo Exhibit 5, and because they bear the  
2     Bates numbers that you kindly provided when you  
3     provided these photographs.

4                     MR. ODELL: I'm going to staple them  
5     together, is that all right?

6                     MR. PALMINTIER: Yes, please. So these  
7     Bates-numbered photographs will be Exhibit 5.

8                     (Dziorny Deposition Exhibit 5 was marked  
9     for identification and attached to the transcript.)

10    BY MR. PALMINTIER:

11                    Q     Mr. Dziorny, have you seen these  
12     photographs before?

13                    A     If not these, very similar, yes. I'm  
14     familiar with --

15                    Q     And I'm not going to --

16                    A     Go ahead, I'm sorry.

17                    Q     Okay. What do they depict?

18                    A     The model, the model BUR-20-1D air cycle  
19     machine.

20                    Q     Which is the one that we've defined for  
21     purposes of this deposition as the subject ACM;  
22     correct?

1           A     Correct.

2           Q     Now, were you present when these  
3     photographs were taken?

4           A     I have taken photographs myself as part  
5     of this. I might have actually taken some of these  
6     photos.

7           Q     What was the reason for photographing  
8     this particular model, do you know?

9           A     As part to explain various parts of the  
10    report that was prepared, or the declaration.

11          Q     Could you repeat that answer? It broke  
12    up.

13          A     I took photos of the air cycle machine as  
14    part of the explanation included in the report and  
15    the declaration that I prepared.

16          Q     But from the standpoint of our purposes  
17    in this 30(b)(6) deposition, you would agree that  
18    this photograph represents a photographic  
19    representation of model BUR-20-1D; correct?

20          A     Yes; correct.

21          Q     And this particular object, which is seen  
22    in these four photographs, was a Fairchild

1 manufactured ACM; correct?

2 A Yes, a Stratos or Fairchild; correct.

3 Q Okay. But let's look back at Exhibit 4.

4 I agree with Chris, it would be better for me to ask

5 Mr. Francis more detailed questions, but generally

6 does the vice president of engineering have a

7 responsibility to look at documents like this on a

8 regular basis from a quality control standpoint?

9 A No, not at all.

10 Q Okay. So it is most likely you wouldn't  
11 have seen this until it was shown to you as an aspect  
12 of this litigation?

13 A That's correct.

14 Q Have you ever seen such a document  
15 before?

16 A Sure, numerous.

17 Q And you were vice president in charge of  
18 engineering on the date that this particular Shop  
19 Visit Report was created; correct?

20 A Yes, I was.

21 Q But if I understand your testimony  
22 correctly, it wouldn't have been shown to you as a

1 matter of course, it wouldn't have been routinely  
2 shown to you?

3 A It would not have been shown to me,  
4 because there is no reason to show -- there's no  
5 reason to show this report. There's no reason to get  
6 engineering involved, and therefore it wouldn't have  
7 been shown to me.

8 Q Who then at Fairchild Controls would get  
9 involved with such a Shop Visit Report?

10 A Product support, Mr. Gary Francis, the  
11 director of product support, would be involved with  
12 this.

13 Q And so would this document be contained,  
14 for example the hard copy of it, in a file in his  
15 office or in his area?

16 MR. ODELL: Objection; form.

17 THE WITNESS: You would have to ask him  
18 that.

19 MR. PALMINTIER: We will, thank you.  
20 That's Exhibit 4. Give me a moment.

21 Can we go off the record for a moment for  
22 a quick bathroom break?

1 MR. ODELL: Yep.

2 (Recess 2:56-3:11 p.m.)

3 MR. PALMINTIER: Back on the record.

4 You're still under oath.

5 BY MR. PALMINTIER:

6 Q Let me ask you, in the capacity as the,  
7 I'm going to call you the Fairchild historian in this  
8 deposition, do you know how much exchange occurred  
9 between the assembler of the aircraft, which is the  
10 Twin Commander that I showed you a picture of in  
11 Exhibit 2, do you know the extent to which Fairchild  
12 participated in the overall design of the air cycle  
13 machine -- sorry, in the overall design of the  
14 environmental control system of that plane?

15 A We have -- we've looked to see if we can  
16 find any records associated with that. All we found  
17 is records indicating that we supplied the primary  
18 and secondary heat exchanger and the air cycling  
19 machine. So I have no -- the company has no records  
20 indicating that we were or were not involved in the  
21 system design.

22 Q So as the person designated as the



1     historian for FCC, Fairchild Controls Corporation, if  
2     you were called upon to testify you could not answer  
3     one way or the other whether Fairchild actively  
4     participated in the overall design of the  
5     environmental control system in Exhibit 2, the 690,  
6     or whether it did?

7                     MR. ODELL:  Objection; form.

8             Q     Whether it did or it did not?

9                     MR. ODELL:  Objection; form.

10                    THE WITNESS:  I couldn't say.  All I can  
11     tell you is that we looked at all the available  
12     records and we see no indication that Fairchild  
13     participated in the system design.

14     BY MR. PALMINTIER:

15             Q     One way or the other, either did  
16     participate or didn't participate --

17             A     That's correct.

18             Q     -- correct?

19             A     That's correct.

20             Q     Okay.  In searching the history of the  
21     role of this ACM that we've been talking about in the  
22     aircraft in Exhibit 2, searching that history were

1     you able to find the design specifications submitted  
2     by the manufacturer of the Twin Commander to  
3     Fairchild?

4             A     No, there were no records indicating any  
5     specification.

6             Q     Okay. Along those same lines let me ask  
7     you some quick questions of do you know whether or  
8     not in this Exhibit 2 aircraft this particular ECS  
9     was adapted to accept the Fairchild ACM or the other  
10    way around, the ACM designed to fit the ECS?

11            A     I really have no knowledge of that one  
12    way or the other. The only knowledge I have is that  
13    the only components that appear to be in the system  
14    are those two. Every other component is not a  
15    Fairchild part number.

16            Q     Okay. As you sit here today, do you  
17    believe that you are the most qualified person at the  
18    former FCC to provide this historical information --

19            A     Yes.

20            Q     -- or is there somebody who knows more  
21    than you do?

22            A     There is really nobody who has more

1 knowledge, especially of rotating machinery in  
2 general.

3 Q Okay. In your experience with United  
4 Technologies, when you designed some of the ACMS was  
5 there someone, any individual that from your  
6 perspective was the most knowledgeable engineer on  
7 design of ACMS?

8 MR. ODELL: Objection; form.

9 THE WITNESS: Yes, that's why I was  
10 promoted to manage all rotating machinery.

11 BY MR. PALMINTIER:

12 Q Because you had that knowledge?

13 A I worked at Pratt & Whitney initially,  
14 and then was brought in to work on rotating  
15 machinery, yes.

16 Q The good thing about depositions is you  
17 don't have to worry about being immodest. This is on  
18 the record because you've been submitted, but I  
19 appreciate your modesty.

20 When we look at Exhibit 3, that's the  
21 Change Notice --

22 A Yes.

1           Q     -- it's fair to say that Fairchild, you  
2     know, that it was Fairchild that was evaluating and  
3     approving this change; correct? Or am I wrong about  
4     that, Fairchild or Stratos?

5           A     It was actually Stratos at this time in  
6     '73, and Fairchild Hiller Stratos Western is noted on  
7     the Change Notice, and, yes, we would have been the  
8     only -- they would have been the only engineering  
9     group that would look at it. Or not only look at it,  
10    but create it. It's essentially a drawing that  
11    provides definition of a machine.

12          Q     Okay. Is this the kind of thing that  
13    engineers in aircraft design and component design do  
14    on a routine basis, that is maybe a practical  
15    solution to a problem pops up and they evaluate it  
16    and approve it, like was done in Exhibit 3?

17          A     Certainly, because a mechanic cannot  
18    perform any operation that's not specified on the  
19    drawing. So if the mechanic had trouble he would  
20    have contacted engineering, and engineering would  
21    have to initiate any change and then create a change  
22    such as this allowing him to perform an operation.

1     It's very strictly controlled.  You cannot do  
2     anything -- the mechanic cannot do anything on a  
3     component unless it's specifically called out or  
4     specified on a drawing.

5             Q     And among other things, that's the  
6     basis -- the basis of that rule that you just talked  
7     about is that good engineering principles require it;  
8     correct?

9             A     Yes.

10            Q     That common sense require, especially  
11     when you're dealing with aircrafts and the extreme  
12     damage that can occur when they don't function  
13     properly; correct, common sense plays a role --

14            A     Sure.

15            Q     -- correct?

16            A     Yes.  It's very carefully controlled.

17            Q     And the federal government, in its  
18     regulations of aircraft and the use of the airways,  
19     also plays a role in that rule in requiring it;  
20     correct?

21                   MR. ODELL:  Objection; outside the scope  
22     of the designation.  You can answer.

1 THE WITNESS: Yes, the federal government  
2 carefully controls who does what in relation to an  
3 aircraft.

4 MR. PALMINTIER: Okay. Chris, have you  
5 been notified that the little status conference is  
6 canceled?

7 MR. ODELL: I don't know, I haven't been  
8 checking my e-mail. Let me look. Have you?

9 MR. PALMINTIER: It has. I just wanted  
10 to let you know.

11 MR. ODELL: Okay. I haven't received  
12 anything, but.

13 MR. PALMINTIER: It's off.

14 BY MR. PALMINTIER:

15 Q In evaluating the product in question,  
16 and I'm talking now about the specific serial number  
17 353, is there -- were you able to find any history of  
18 that particular ACM?

19 MR. ODELL: Objection; form.

20 THE WITNESS: Well, I was made aware of  
21 the Shop Visit Report for 353 that is called Exhibit  
22 4.

1 BY MR. PALMINTIER:

2 Q Okay. Do you know -- can you tell us  
3 based on that historic review when that particular  
4 serial number 353 was manufactured?

5 A No, I cannot. I have no records  
6 indicating that.

7 Q Who can tell us that?

8 A I don't know that anybody can.

9 Q Okay. Can you tell us, again from an  
10 historical standpoint in your research, where the  
11 serial number occurs on this product? And if you are  
12 assisted by Exhibit 5 before you, the in globo  
13 photographs, certainly feel free to look at that.

14 A I'm sorry, can you repeat -- can you tell  
15 us what?

16 Q Yes. Where would the serial number be  
17 emblazed on the product?

18 A Oh, it would be on the identification  
19 plate.

20 Q Okay. In Exhibit 5 where is that  
21 identification plate?

22 A It is --

1 Q If you look at the lower right hand --

2 A Yeah, it is the larger --

3 Q -- it's numbered --

4 A I'm sorry. It's the larger of the two  
5 silver plates shown in the large diameter center of  
6 the machine in the first photo.

7 Q Understood.

8 Is it possible in the copy that you have  
9 to read the serial number on Exhibit 5, 1343?

10 A No, the decal is not there.

11 Q Okay. And none of the other pictures  
12 show us that actual number; correct?

13 A That is correct.

14 Q Okay. Would you be the person to ask  
15 about who the previous owners were of the serial 353,  
16 or would somebody else?

17 A It would -- if anybody can help with that  
18 it would be the product support director,  
19 Mr. Francis. I certainly don't.

20 Q Okay. Okay. Do the company records  
21 reveal on the Fairchild ACMS that are in circulation,  
22 were in circulation at the time of this event in 2011



1     how an inspection for leakage of oil could take  
2     place?

3                     MR. ODELL:  Objection; outside the scope  
4     of the designation.  You can answer.

5                     THE WITNESS:  I'm not sure I understand  
6     your question.  Do we have records that would show  
7     that, or --

8     BY MR. PALMINTIER:

9             Q     Yes, yes.

10            A     I don't think you would need a record.  
11     You would check the oil level.  It's a very simple  
12     operation that's done routinely by aircraft  
13     maintenance personnel.

14            Q     And if it were impossible to check that  
15     oil level, you would agree with me that that was a  
16     defect in the product; correct?

17                     MR. ODELL:  Objection; form.

18                     THE WITNESS:  It would be a poor design,  
19     yes.

20     BY MR. PALMINTIER:

21            Q     Okay.  Well, again, I'm trying to stay  
22     within the scope of your, the three items on the

1 list. Let's say that a pilot or mechanic said that  
2 the oil reserve, the reservoir was low. What would  
3 Fairchild have done about one of those Fairchild  
4 designed and manufactured ACMs?

5 MR. ODELL: Objection; form.

6 THE WITNESS: If a pilot had said that a  
7 oil reserve was low, then he would fill it with oil.  
8 It takes two and a half tablespoonfuls of oil to fill  
9 the unit. It's not a lot of oil.

10 BY MR. PALMINTIER:

11 Q Your testimony is that it was two and a  
12 half tablespoons of oil in the subject ACM that we're  
13 talking about?

14 A That fills the BUR-20, yes. Two and a  
15 half tablespoonfuls of oil fill it, and you cannot  
16 overfill it. So, yes, there can be no more than two  
17 and a half tablespoonfuls of oil in the unit.

18 Q If we wanted a history of overhauls,  
19 repairs, service, other things performed on the 353,  
20 where would we look?

21 MR. ODELL: Objection; form.

22 THE WITNESS: The only person who might

1 have any information on that would be the product  
2 support director.

3 MR. PALMINTIER: Okay. And I think we've  
4 pretty much gotten to that point where we'll pick up  
5 with him. Give me two minutes here.

6 (Brief recess.)

7 BY MR. PALMINTIER:

8 Q From the standpoint of the head of  
9 engineering of FCC, Fairchild, whose responsibility  
10 would it have been to retire one of their  
11 manufactured ACMS; in other words, to say this  
12 thing's had it, let's take it out of circulation?

13 A That would never exist. The only reason  
14 a -- you mean a particular serial number, a single  
15 unit? The only reason it would be retired is if it  
16 was beyond economical repair, or there was, it  
17 would -- there's absolutely no reason, unless it's  
18 beyond economical repair.

19 Q Well, but whose responsibility would it  
20 be, would it have been in 2011, for example, at the  
21 time of this incident, to make that determination  
22 that it's beyond economical repair?

1           A     That would come from the mechanic who  
2     reviewed the condition of a particular machine, but  
3     to my -- I have no -- I really don't have enough  
4     knowledge to say that that ever happens. I doubt  
5     that it does.

6           Q     Okay. You mentioned air bearings, and I  
7     moved on before I forgot to ask you about ceramic  
8     bearings. These ceramic bearings came into use in  
9     the ACMS in the 1980s, early '80s; correct?

10          A     They've been -- I used ceramic balls, but  
11     they were oil-lubricated balls.

12          Q     Okay. But one of the reasons why  
13     ceramics were used is to improve safety and improve  
14     performance; correct?

15          A     Not at all. Not at all. It has nothing  
16     to do with safety. Ceramic balls are used because  
17     they offer longer life than metallic balls. It has  
18     absolutely nothing to do with safety. It has no  
19     implications for safety.

20          Q     Okay. So longer life of the bearing has  
21     no implication for safety?

22          A     No. It has implications for reliability,

1     how long does the machine last.  A bearing's a  
2     wear-out item.

3             Q     Understood.

4                     But is it correct to say that no  
5     wick-fed, oil-lubricated metallic bearings, you know,  
6     the metallic bearings you've been talking about, were  
7     still used after ceramics came along?

8             A     Oh, they certainly are used.  They're  
9     used today.

10            Q     Understood.  I'm just getting information  
11     from you.

12                    So your testimony is that, especially  
13     within ACMS such as those that we've been talking  
14     about today, the BUR-20, et cetera, ceramics and  
15     metal bearings were interchangeable, it wouldn't have  
16     mattered?

17            A     It depends on the life requirements for  
18     the unit.  The ceramic bearings are considerably more  
19     expensive than high-grade metallic bearings.  The  
20     highest grade you can buy is an M50 bearing, and  
21     ceramics outlast them but they cost considerably  
22     more.  If there's no reason to use ceramics for

1 extended life, then metallic bearings are used.

2                   Indeed most -- I'd say virtually all,  
3 except for a few commuter aircraft, used high-quality  
4 steel bearings since -- they're still in use today in  
5 oil-fed systems.

6                   Q     Understood.

7                   Remember earlier you were describing an  
8 event in which the bearings failed and the unit would  
9 produce, maybe for a second, an oil burn or a fume  
10 event?

11                   MR. ODELL: Objection; form, misstates  
12 the record.

13 BY MR. PALMINTIER:

14                   Q     Did I misstate it?

15                   A     It's a -- an air cycle machine will fail  
16 very quickly. It fails with the impellers, the  
17 turbine and the compressor, interfering with their  
18 shrouds. It fails when the bearings basically  
19 disintegrate, and it happens very rapidly and usually  
20 results not in fumes but in liquid oil simply leaving  
21 the unit. It's allowed to leave because the seal  
22 breaks apart once the bearing fails.

1           Q     Okay. But one of the ways in which that  
2 failure would occur would be the disintegration of  
3 the bearings --

4           A     That's the --

5           Q     -- correct?

6           A     That is the number one reason why a  
7 failure will occur. They're wear-out items, and once  
8 they wear they fail.

9           Q     And that would be one reason to use  
10 ceramic, so you could avoid that kind of failure?

11          A     Not at all. Ceramics fail the same way.

12          Q     Okay. But as you've said, not as often;  
13 correct?

14          A     No, I didn't say not as often. I said  
15 that they have longer life than even the highest  
16 grade M50. It depends on the application. The  
17 ceramic ball --

18          Q     Understood.

19          A     A ceramic ball could fail sooner if the  
20 machine was running faster than a comparable steel  
21 bearing supported unit.

22          Q     Yes.

1 MR. PALMINTIER: I want to thank you very  
2 much. I will see you again when we take your expert  
3 deposition. Thank you very much.

4 THE WITNESS: You're welcome, sir.

5 MR. ODELL: I have just a couple of  
6 follow-up questions, Mr. Dziorny.

7 EXAMINATION BY COUNSEL FOR DEFENDANT FAIRCHILD  
8 BY MR. ODELL:

9 Q You answered some questions from  
10 Plaintiffs' counsel about a particular BUR-20 ACM  
11 serial number 353. Do you recall those questions?

12 A Yes.

13 Q Based on your review of Fairchild's  
14 records, does Fairchild have any evidence that serial  
15 number 353 was on the E690 EH Twin Commander on  
16 May 31st, 2011?

17 A I have no knowledge of that.

18 Q I understand you have no knowledge of it.  
19 Is there any information in the company's records?

20 A Fairchild has, or Triumph has no  
21 knowledge of that. The company has no indication of  
22 that. We don't know what happens once we ship a



1 unit.

2 Q And does Fairchild, or Triumph today,  
3 have any information in its records indicating that a  
4 Fairchild BUR-20 ACM of whatever serial number was  
5 installed on the E690 EH aircraft on May 31st, 2011?

6 A No, the company has no records indicating  
7 that.

8 Q Okay. Have you heard that there may be  
9 other manufacturers' ACMs that are compatible with  
10 the Twin Commander 690A aircraft?

11 A In reviewing records for this litigation,  
12 yes, one of the Plaintiffs' witnesses, or -- I  
13 believe it was John Probst said that there was an  
14 alternate machine.

15 Q Might it have been Don Hansen?

16 A Yeah, or Mr. Hansen. It's one of the  
17 two, yes.

18 Q Very early in the deposition you were  
19 asked a question about whether all aircraft have  
20 ACMs. My understanding was that your testimony was  
21 that, no, not all aircraft have ACMs; is that right?

22 MR. PALMINTIER: Object to form.

1 THE WITNESS: Well, not all aircraft have  
2 ACMs, but that wasn't the question. The question was  
3 does an environmental control system necessitate an  
4 ACM, and the answer is no. It necessitates  
5 pressurization, but that can be accomplished with a  
6 valve.

7 MR. ODELL: And I just wanted a  
8 clarification on that. I appreciate it. That's all  
9 the questions I have.

10 REDIRECT EXAMINATION BY COUNSEL FOR PLAINTIFFS  
11 BY MR. PALMINTIER:

12 Q Let me follow up quickly. Your testimony  
13 is that the records don't reveal one way or the other  
14 whether the serial number 353 was used; correct?

15 A Whether it was on the aircraft involved  
16 in the incident; that's correct.

17 MR. PALMINTIER: Thank you. That's all I  
18 have.

19 (Signature having not been waived, the  
20 deposition of PAUL J. DZIORNY was concluded at 3:40  
21 p.m.)  
22

1 Notice Date: May 17, 2016

2 Deposition Date: May 5, 2016

3 Deponent: Paul J. Dziorny 30(b)(6)

4 Case Name: Kenneth and Jana Davidson v Rockwell

5 International, et al

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1 CERTIFICATE OF DEPONENT

2

3 I hereby certify that I have read and examined the  
4 foregoing transcript, and the same is a true and  
5 accurate record of the testimony given by me.

6 Any additions or corrections that I feel are  
7 necessary, I will attach on a separate sheet of  
8 paper to the original transcript.

9

10 \_\_\_\_\_  
Signature of Deponent

11 I hereby certify that the individual representing  
12 himself/herself to be the above-named individual,  
13 appeared before me this \_\_\_\_\_ day of \_\_\_\_\_,  
14 2016, and executed the above certificate in my  
15 presence.

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17 \_\_\_\_\_  
NOTARY PUBLIC IN AND FOR

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20 \_\_\_\_\_  
County Name

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22 MY COMMISSION EXPIRES:

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CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC

I, Toni R. Thompson, RMR, Court Reporter,  
the officer before whom the foregoing proceedings was  
taken, do hereby certify that the foregoing transcript  
is a true and correct record of the proceedings; that  
said proceedings were taken by me stenographically and  
thereafter reduced to typewriting under my  
supervision; and that I am neither counsel for,  
related to, nor employed by any of the parties to this  
case and have no interest, financial or otherwise, in  
its outcome.

IN WITNESS WHEREOF, I have hereunto set my  
hand and affixed my notarial seal this 16th day of May  
2016.

My Commission Expires:  
January 18, 2017

A handwritten signature in dark ink, appearing to read 'T. Thompson', is written over a horizontal line.

NOTARY PUBLIC IN AND FOR  
THE STATE OF MARYLAND